

REMARKS

In the non-final Office Action mailed on June 14, 2005 (Paper No. 2005069), the Examiner rejected claims 66-67, 79-85, and 91-94 under 35 U.S.C. § 101; and indicated that claims 1-65 and 68-78 are allowable. Applicants herein amend claims 67 and 91 to clarify the subject matter to which these claims are directed. Applicants traverse the rejection under 35 U.S.C. § 101.

Claim 66 is directed to a computer-readable medium containing instructions that, when executed, cause a computer system to perform a recited method. The Examiner indicated that the information recited as being stored in the computer-readable medium by claim 66 is "mere non-functional descriptive material," and therefore claim 66 does not constitute statutory subject matter. Applicants respectfully disagree and refer the Examiner to MPEP § 21.06(IV)(B)(1)(a):

[A] claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

Clearly, the contents of claim 66 constitute a computer-readable medium encoded with a computer program in accordance with this portion of the MPEP, and therefore claim 66 qualifies as statutory subject matter.

Claims 79 and 85 each recite a data structure encoded in a computer-readable medium, as recognized by the Examiner. The Examiner further indicated, however, that the recited data structure contains only non-functional descriptive material. Applicants respectfully disagree. The following passage of the MPEP sets forth the difference between functional descriptive material and non-functional descriptive material.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures

and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

MPEP § 2106(IV)(B)(1). Applicants submit that both claim 79 and claim 85 recite data structures that impart functionality when employed as a computer component and support specific data manipulation functions, and are therefore statutory. Claim 79 is directed to "a data structure that stores multiple definitions for event types." This data structure imparts the functionality of identifying occurrences of event types in interaction data for a web site. It supports the specific data manipulation function of determining an interacted-with web page to be of the identified type if the URL specified for the web page includes a URL path portion that matches the URL path portion specified for that event type definition and includes a query string portion that matches the query string pattern specified for that event type definition. Claim 85 is directed to a data structure storing multiple definitions of event types. It imparts the functionality of identifying occurrences of event types in interaction data or usage data. It supports the specific data manipulation functions of identifying an interaction or use as a particular event type if data about the interaction or use matches an event type definition contained in the data structure and had related information that was communicated in the manner specified by a communication definition indicated by the same event type definition. As the data structures recited in these claims clearly impart functionality when employed as a computer component and support specific data manipulation functions, applicants submit that these claims are statutory.

Claim 67 is directed to a computing device for analyzing interaction data. As amended herein, claim 67 recites physical structure of a machine or manufacture in terms of its hardware and software combination. Accordingly, claim 67 constitutes proper subject matter in view of the following passage of MPEP § 2106(IV)(B)(2):

If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760.

Claim 91 as amended is directed to identifying in interaction data for a web site occurrences of event types defined by event-type definitions, and outputting indications thereof. Applicants submit that this claim is directed to a practical application of data manipulation in the technological arts and is therefore statutory.

In view of the foregoing, applicants respectfully request that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 101, and promptly provide a notice of allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 342818027US from which the undersigned is authorized to draw.

Dated:

7/18/05

Respectfully submitted,

By 

Steven D. Lawrenz

Registration No.: 37,376

PERKINS COIE LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8000

(206) 359-7198 (Fax)

Attorneys for Applicant